

the limitation in § 400.208 of this part with respect to nonrefugee children;

(3) Meet eligibility requirements and conditions in this subpart;

(4) Provide the name of the resettlement agency which resettled them; and

(5) Are not full-time students in institutions of higher education, as defined by the Director, except where such enrollment is approved by the State, or its designee, as part of an individual employability plan for a refugee under § 400.79 of this part or a plan for an unaccompanied minor in accordance with § 400.112.

(b) A refugee may be eligible for refugee medical assistance under this subpart during a period of time to be determined by the Director in accordance with § 400.211.

(c) The State agency may not require that a refugee actually receive or apply for refugee cash assistance as a condition of eligibility for refugee medical assistance.

(d) All recipients of refugee cash assistance who are not eligible for Medicaid or SCHIP are eligible for refugee medical assistance.

[45 FR 59323, Sept. 9, 1980, as amended at 58 FR 46090, Sept. 1, 1993; 58 FR 64507, Dec. 8, 1993; 60 FR 33603, June 28, 1995; 65 FR 15449, Mar. 22, 2000]

**§ 400.101 Financial eligibility standards.**

In determining eligibility for refugee medical assistance, the State agency must use—

(a) In States with medically needy programs under 42 CFR part 435, subpart D:

(1) The State's medically needy financial eligibility standards established under 42 CFR part 435, subpart I, and as reflected in the State's approved title XIX State Medicaid plan; or

(2) A financial eligibility standard established at up to 200% of the national poverty level; and

(b) In States without a medically needy program:

(1) The State's AFDC payment standards and methodologies in effect as of July 16, 1996, including any modifications elected by the State under section 1931(b)(2) of the Social Security Act; or

(2) A financial eligibility standard established at up to 200% of the national poverty level.

[54 FR 5480, Feb. 3, 1989, as amended at 65 FR 15449, Mar. 22, 2000]

**§ 400.102 Consideration of income and resources.**

(a) Except as specified in paragraphs (b), (c), and (d) of this section, in considering financial eligibility of applicants for refugee medical assistance, the State agency must—

(1) In States with medically needy programs, use the standards governing determination of income eligibility in 42 CFR 435.831, and as reflected in the State's approved title XIX State Medicaid plan.

(2) In States without medically needy programs, use the standards and methodologies governing consideration of income and resources of AFDC applicants in effect as of July 16, 1996, including any modifications elected by the State under section 1931(b)(2) of the Social Security Act.

(b) The State may not consider in-kind services and shelter provided to an applicant by a sponsor or local resettlement agency in determining eligibility for and receipt of refugee medical assistance.

(c) The State may not consider any cash assistance payments provided to an applicant in determining eligibility for and receipt of refugee medical assistance.

(d) The State must base eligibility for refugee medical assistance on the applicant's income and resources on the date of application. The State agency may not use the practice of averaging income prospectively over the application processing period in determining income eligibility for refugee medical assistance.

[65 FR 15449, Mar. 22, 2000]

**§ 400.103 Coverage of refugees who spend down to State financial eligibility standards.**

States must allow applicants for RMA who do not meet the financial eligibility standards elected in § 400.101 to spend down to such standard using an

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appropriate method for deducting incurred medical expenses.

[65 FR 15449, Mar. 22, 2000]

#### § 400.104 Continued coverage of recipients who receive increased earnings from employment.

(a) If a refugee who is receiving refugee medical assistance receives earnings from employment, the earnings shall not affect the refugee's continued medical assistance eligibility.

(b) If a refugee, who is receiving Medicaid and has been residing in the U.S. less than the time-eligibility period for refugee medical assistance, becomes ineligible for Medicaid because of earnings from employment, the refugee must be transferred to refugee medical assistance without an RMA eligibility determination.

(c) Under paragraphs (a) and (b) of this section, a refugee shall continue to receive refugee medical assistance until he/she reaches the end of his or her time-eligibility period for refugee medical assistance, in accordance with § 400.100(b).

(d) In cases where a refugee is covered by employer-provided health insurance, any payment of RMA for that individual must be reduced by the amount of the third party payment.

[65 FR 15449, Mar. 22, 2000]

#### SCOPE OF MEDICAL SERVICES

#### § 400.105 Mandatory services.

In providing refugee medical assistance to refugees, a State must provide at least the same services in the same manner and to the same extent as under the State's Medicaid program, as delineated in 42 CFR Part 440.

#### § 400.106 Additional services.

If a State or local jurisdiction provides additional medical services beyond the scope of the State's Medicaid program to destitute residents of the State or locality through public facilities, such as county hospitals, the State may provide to refugees who are determined eligible under §§ 400.94, only to the extent that sufficient funds are

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appropriated, or 400.100 of this part the same services through public facilities.

[54 FR 5480, Feb. 3, 1989, as amended at 60 FR 33603, June 28, 1995]

#### § 400.107 Medical screening.

(a) As part of its refugee medical assistance program, a State may provide a medical screening to a refugee provided—

(1) The screening is in accordance with requirements prescribed by the Director, or his or her designee; and

(2) Written approval for the screening program or project has been provided to the State by the Director, or designee.

(b) If such screening is done during the first 90 days after a refugee's initial date of entry into the United States, it may be provided without prior determination of the refugee's eligibility under §§ 400.94 or 400.100 of this part.

[54 FR 5480, Feb. 3, 1989, as amended at 60 FR 33603, June 28, 1995; 65 FR 15449, Mar. 22, 2000]

#### Subpart H—Child Welfare Services

SOURCE: 51 FR 3915, Jan. 30, 1986, unless otherwise noted.

#### § 400.110 Basis and scope.

This subpart prescribes requirements concerning grants to States under section 412(d)(2)(B) of the Act for child welfare services to refugee unaccompanied minors.

#### § 400.111 Definitions.

For purposes of this subpart—

*Child welfare agency* means an agency licensed or approved under State law to provide child welfare services to children in the State.

*Unaccompanied minor* means a person who has not yet attained 18 years of age (or a higher age established by the State of resettlement in its child welfare plan under title IV-B of the Social Security Act for the availability of child welfare services to any other child in the State); who entered the United States unaccompanied by and not destined to (a) a parent or (b) a close nonparental adult relative who is willing and able to care for the child or (c) an adult with a clear and court-verifiable claim to custody of the